The opinion in support of the decision being entered today is *not* binding precedent of the Board.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte PETER FORD

Appeal 2007-0449
Application 09/463,146
Technology Center 2100

Decided: September 24, 2007

Before JAMES D. THOMAS, ANITA PELLMAN GROSS, and SCOTT R. BOALICK, *Administrative Patent Judges*.

THOMAS, *Administrative Patent Judge*.

DECISION ON APPEAL

This appeal involves claims 19 through 25 and 27 through 37, Appellant having cancelled claims 1 through 18 and 26. We have jurisdiction under 35 U.S.C. §§ 6(b) and 134(a).

As best representative of the disclosed and claimed invention, independent claim 19 is reproduced below:

19. A method of distributing information to users in a cellular telecommunications network comprising a plurality of base stations transceiving in a plurality of cells of the network, the method comprising:

providing a plurality of mobile stations, wherein each said mobile station is provided with a removable module which is capable of being used in association with any of a plurality of said mobile stations, each of the mobile stations having an associated information access status for the receipt of messages broadcast on a common channel of at least one cell of said network;

enabling first mobile stations having a first information access status to decrypt and present the message to a user in unencrypted form, by providing each removable module of each of said first mobile stations with a decryption function arranged to use a decryption key;

preventing second mobile stations having a second information access status from presenting the message in unencrypted form to a user when being served in the cell;

broadcasting a signal on a common channel of at least one cell of the network, the signal containing a limited access message in encrypted form, for general reception in the at least one cell and for limited access by users of said first mobile stations;

transmitting a transfer protocol identifier indicating that the encrypted broadcast message is of a type for data download to the removable module from the first mobile station;

for each said first mobile station, passing said encrypted broadcast message to its corresponding removable module in response to receipt of said transfer protocol identifier;

for each said removable module of each of said first mobile stations, decrypting said encrypted broadcast message using said decryption key in response to receipt of said encrypted broadcast message; and

for each said removable module, passing said decrypted broadcast message to its corresponding first mobile station for display thereon.

The following references are relied upon by the Examiner:

Chaney	US 5,852,290	Dec. 22, 1998 (Filed January 30, 1997)
Diachina	WO 9641493	Dec. 19, 1996

Farrugia, A.J., "Smart Card Technology Applied to the future of European Cellular Telephone on the digital D-Network" Elsevier Science Publishers, Smart Card 2000, 1991, pp. 93-107.

Claims 19 through 25 and 27 through 37 stand rejected under 35 U.S.C. § 103. In a first stated rejection of claims 19, 20, 24, 25, and 27 through 37, the Examiner relies upon Diachina in view of Chaney. In a second stated rejection, the Examiner adds Farrugia as to claims 21 through 23.

Rather than repeat the positions of the Appellant and the Examiner, reference is made to the Brief for Appellant's positions (no Reply Brief has been filed), and to the Answer for the Examiner's positions.

OPINION

For the reasons set forth by the Examiner in the Answer, as expanded upon here, we sustain both stated rejections of all claims on appeal under 35 U.S.C. § 103. Appellant's Brief argues independent claims 19, 32, and 37 collectively with independent claim 19 as representative. No arguments are presented before us as to any dependent claims in the first stated rejection. According to the statements at the middle of page 12 of the Brief, no arguments are presented as to the second stated rejection of dependent claims 21 through 23, and the statement at page 12 relies for patentability of

these claims upon the arguments previously presented as to their parent independent claim 19. Significantly, for both stated rejections, no arguments are presented before us that the references are not properly combinable within 35 U.S.C. § 103.

The Examiner's responsive arguments at pages 4 through 6 of the Answer expand upon the initial statement of the rejection as to independent claims 19, 32, and 37 at page 3 of the Answer and directly address each of the arguments raised by Appellant beginning at page 7 of the Brief. From our perspective, Diachina directly relates to broadcast SMS service in a digital cell phone environment, which SMS service is a broadcast short message service within the title of Diachina as well as recognized as a part of the prior art at page 1 of Appellant's Specification as filed.

As discussed initially at the top and bottom of Diachina's page 7 with respect to various layered protocols and messages within them, a header portion is utilized to identify a respective message type. The initial paragraph of the summary at page 12 indicates that message attributes are specified on a per message basis so that area respective mobile station or cell phone will look for the attributes of that respective message that should be read only by that mobile station. Page 31, line 7 begins a discussion of broadcast short message service (SMS), where page 33 is relied upon by the Examiner to note that the header information depicted there relates to specific message ID types which is consistent with Appellant's approach as disclosed as well.

Lastly, as also relied on by the Examiner, the discussion at Diachina's page 40 introduces the topic of SMS messages being encrypted in such a manner to support different classes of service, much like those attributed to cable television systems. The bottom of that page as relied upon by the Examiner indicates that each broadcast message indicates an attribute or indicator that allows the receiving mobile phone to determine which encryption key to utilize in the decoding of the respective messages. The capability is said to exist, optionally, that a smart card would include the ability for the decryption and encryption keys to be housed therein, thus, plainly suggesting to the reader/artisan that the decryption of a received encrypted message would take place within the smart card itself. Even from Diachina's teachings as outlined here, as relied upon by the Examiner in the Answer, the artisan would well appreciate that the claimed transfer protocol identifier is taught in its own form for specific data download or SMS messages to be conveyed to a module such as the smart card of Diachina for decryption. The artisan, without the benefit of the teachings of Chaney, would have appropriately considered this overall functionality within the teachings of Diachina alone because a smart card by definition has within it stored information and processor capabilities.

To the extent the Examiner is correct at the middle of page 3 of the Answer that Diachina does not specify that the message decryption takes place within smart cards itself, this is clearly resolved in the art by the corresponding teachings in Chaney as outlined by the Examiner. At the outset, we note that the teachings at column 13, lines 4 through 25 of Chaney makes clear that the teachings in Chaney applicable to cable

television environments are equally applicable to cell phone environments. The smart card 180 within figure 1 of Chaney clearly shows a descrambler 185 and an associated security controller 183, the details of which are shown in figure 4. Figure 4 and the associated figures 5 through 8 make clear to the reader that the associated keys and the descrambling or/decryption operation occur within the smart card itself. This functionality of remote decryption within the smart card itself is recognized in the discussion at columns 1 and 2 of Chaney from the perspective of the entitlement management message EMM and the associated entitlement control message ECM. It is stated initially at column 2, lines 4 and 5 that "EMM and ECM data is transferred to the smart card for processing via the serial I/O terminal." This discussion of EMM and ECM data is continued in the paragraph bridging columns 3 and 4 of Chaney. The Examiner's reliance upon column 4, lines 36 through 52, and column 5, lines 40 through 42, plainly indicates that the transport unit 120 in figure 1 of that reference transfers data to the security controller 183 within the smart card 180 for descrambling of the encrypted signal.

Therefore, the Examiner's positions in the Answer urging unpatentability the subject matter of the claims on appeal are well taken by the Examiner's analysis as well as our own independent review of these specifically noted teachings in both references. Both references contain data structures and circuitries which discern between types of messages that are respectively received. Finally, the argued feature, respectively set forth in slightly different words in each independent claim on appeal, of passing an encrypted broadcast message to its corresponding removable module in response to receipt of a transfer protocol identifier, is suggested/taught in

both references. To the extent the claims on appeal argued before us require or otherwise set forth the decryption of a received encrypted message within a removable module, Diachina plainly, strongly suggests this and Chaney confirms the capability of doing this within the commonly taught smart cards of both references. No Reply Brief has been filed in the appeal contesting the Examiner's responsive arguments beginning at page 7 of the Answer.

In view of the foregoing, the decision of the Examiner rejecting all claims on appeal under 35 U.S.C. § 103 is affirmed.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. §1.136(a). See 37 C.F.R. § 1.136(a)(1)(iv).

AFFIRMED

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